

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: SB 1618

SPONSOR: Senator Atwater

SUBJECT: Autism Spectrum Disorder Medicaid Waiver Program

DATE: April 4, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Collins | Whiddon | CF | Favorable |
| 2. | Garner | Wilson | HE | Favorable |
| 3. | | | HA | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

Senate Bill 1618 directs the Agency for Health Care Administration (AHCA) and the Agency for Persons with Disabilities (APD) to develop a home and community-based waiver program to provide personal care assistance, respite, and applied behavioral analysis for children who are diagnosed with Autism Spectrum Disorder. The bill provides a definition for "Autism Spectrum Disorder." The bill directs AHCA to apply for federal approval of a Medicaid waiver and, subject to the availability of funding and any limitations provided in the General Appropriations Act, to implement the waiver program. The bill authorizes AHCA to adopt rules to administer the waiver program.

This bill amends section 409.912 of the Florida Statutes.

II. Present Situation:

Autism spectrum disorders (ASD) are characterized by varying degrees of impairment in communication skills, social interactions, and repetitive or stereotypic patterns of behaviors. These developmental disorders range from a severe form, called autistic disorder to a milder form, called Asperger syndrome. If a child has symptoms of either of these disorders but does not meet the specific criteria for each, the diagnosis is called pervasive developmental disorder not otherwise specified (PDD-NOS). Other rare, very severe disorders that are included in the autism spectrum disorders are Rett syndrome and childhood disintegrative disorder.¹

¹ Autism Facts, National Institute of Health, National Institute of Child Health and Human Development, <http://www.nichd.nih.gov/publications/pubs/autismfacts.pdf>

Autism spectrum disorders are more common in the pediatric population than diabetes, spina bifida, or down syndrome. Prevalence studies estimate that as many as six per 1,000 children may suffer from ASD. With early screening, this developmental disorder can often be detected by the time a child is three years old and in some cases as early as 18 months. However, only 50 percent of these children are diagnosed before reaching kindergarten.²

Interventions for Autism Spectrum Disorders

Early diagnosis and treatment interventions can help children suffering from ASD to learn new skills and lead more normal lives. Individualized interventions that are begun as early as possible provide children with the best chance for progress. Some doctors suggest starting individualized interventions before a child is two-and-a-half or three years of age in order to obtain the best and most lasting results.³

Some of the most common treatments for ASD include:

- Speech Therapy,
- Occupational Therapy,
- Physical Therapy,
- Applied Behavior Analysis, and
- Medication.

Services for Children with Autism Spectrum Disorder

Children with autism spectrum disorder are not currently served by APD unless they have some other qualifying diagnosis specified under s. 393.063(10), F.S. This subsection defines the term “developmental disability” to mean a disorder or syndrome that is attributable to retardation, cerebral palsy, autism,⁴ spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

Children who are diagnosed with autism may receive services through the Developmental Services Home and Community-Based Services Waiver (DS-HCBS). This waiver program provides services for children with autism who are three years of age and older, and includes 33 services ranging from comprehensive support coordination, behavioral services, residential services, to home modifications.

Services for children from birth to three years old are provided through the Early Intervention (EI) program that is authorized by s. 393.064, F.S. Florida’s EI program, administered by Children’s Medical Services within the Department of Health, offers early intervention services to infants and toddlers (birth to thirty-six months) who experience significant developmental delays or a condition that places them at risk of developmental delay. In order to receive services

² Autism Spectrum Disorders (Pervasive Developmental Disorders), <http://www.nimh.nih.gov/publicat/autism.cfm>.

³ Autism Spectrum Disorders (Pervasive Developmental Disorders), <http://www.nimh.nih.gov/publicat/autism.cfm>.

⁴ “Autism” means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability a markedly restricted repertoire of activities and interests [s. 393.063(2), F.S.].

through the EI program a child must exhibit a developmental delay in one or more areas (cognition, physical/motor, and communication, social or emotional, or adaptive development). The developmental delay must be equal to or greater than 1.5 standard deviations on a standardized assessment tool or represent at least a 25 percent delay in terms of months of age.⁵ However, the program does not require that the child be formally diagnosed with ASD.

The EI program is an entitlement program based upon a child meeting certain eligibility requirements and is not based on parental income. Funding for the program is provided through Part C of the Individuals with Disabilities Education Act (IDEA), a federal program, and is enhanced by state and local resources. Approximately 42,000 children are served through this program annually and about one-half of them are Medicaid eligible.

After a child in need of these services turns three years of age, services are typically provided by the education system through Part B of IDEA, or through a home and community-based waiver program managed by APD.

Medicaid Home and Community-Based Waivers

The Medicaid program is jointly funded by the federal, state, and county governments to provide medical care to eligible individuals. Medicaid is the largest program providing medical and health-related services to the nation's poorest citizens. Within broad national guidelines, which the federal government establishes, each of the states:

- Establishes its own eligibility standards;
- Determines the type, amount, duration, and scope of services;
- Sets the rate of payment for services; and
- Administers its own program.

The Agency for Health Care Administration is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

Home and community-based service delivery programs have become a growing part of states' Medicaid programs, serving as an alternative to care in institutional settings. To provide these services, states obtain waivers from certain federal statutory requirements for Medicaid. States often operate multiple waiver programs serving different population groups, such as the elderly, persons with mental retardation or other developmental disabilities, persons with physical disabilities, and children with special health care needs.

States may apply to the Centers for Medicare and Medicaid Services for section 1915(c) waivers to provide home and community-based services as an alternative to institutional care in a hospital, nursing home, or intermediate care facility for the developmentally disabled. If approved, the waivers allow states to limit the availability of services geographically, to target services to specific populations or medical/disease conditions, or to limit the number of persons served, actions not allowed under Medicaid state plan services. Under a section 1915(c) waiver,

⁵ Early Steps, Children's Medical Services, Eligibility, <http://www.cms-kids.com/EarlyStepsElig.htm>.

states determine the types of services they wish to offer, and any provider who is interested and meets application requirements may provide services. Waivers may offer a variety of skilled services to only a few individuals with a particular condition, such as persons with traumatic brain injury, or they may offer only a few unskilled services to a large number of people, such as the aged or disabled.

A benefit of the implementation of a federal waiver program is the federal Medicaid reimbursement of 58.90 percent for each state dollar spent. Federal waiver programs require the commitment of some state funding but reduce the amount of state funding necessary to support approved programs.

Section 409.912, F.S., provides for the cost-effective purchasing of health care and directs AHCA to purchase goods and services for Medicaid recipients in the most cost-effective manner that is consistent with the delivery of quality medical care. The agency is further authorized to seek federal waivers to implement this course of action.

III. Effect of Proposed Changes:

Senate Bill 1618 amends s. 409.912, F.S., to create subsection (50) directing AHCA and APD to develop a home and community-based waiver program to provide personal care assistance, respite, and applied behavioral analysis for children who are diagnosed with ASD. The bill defines “Autism Spectrum Disorder” as a neurological disorder that affects reasoning, social interaction and communication, that may affect the functioning of the brain, and is usually evident before a child is three years of age. AHCA is also directed to apply for federal approval of a Medicaid waiver and, if approved, implement the waiver program subject to the availability of funding and any limitations provided in the General Appropriations Act. Authorization is provided to AHCA to adopt rules to administer the waiver program. The effective date of this legislation is July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The implementation of this bill would result in additional services being provided to children with ASD.

C. Government Sector Impact:

A new waiver program will require 41 percent of its funding to be provided from General Revenue in order to obtain the matching federal funds to support the program.

The Agency for Health Care Administration reports that an estimated 26,673 children could become eligible for services if this bill is implemented. The cost of providing the services to meet the requirements of this bill (case management, personal care assistance, behavior analysis services, respite, and behavioral assessment) is estimated to be \$598,967,920 (\$246,235,712 general revenue) in Year 1.

All Medicaid waiver recipients are also eligible for state plan services. Creating a waiver program for children with ASD will result in additional children becoming eligible to receive medically necessary state plan services.

The development and implementation of a new waiver program will result in an increased staff workload for AHCA and the APD.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There is currently no accurate count in this state of the number of children with ASD or autism. The identification of children who are eligible for services provided for by this bill will be complicated by the need to differentiate between, and diagnose, autism and ASD. Children older than three years of age are currently eligible to receive services under the DS-HCBS waiver. However, these children would also be eligible for services under the waiver proposed by this bill. Conceptually, these children could receive services under the newly created waiver if there is a waiting list for the existing waiver program.

The definition provided by this bill for ASD is broad. ASD is actually a combination of diagnoses that are defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV). Some of these diagnoses are not currently considered eligible as a developmental disability, such as Asperger's Disorder and PDD-NOS.

Senate Bill 1618 does not specify the age range of children who are to receive the services authorized by this bill. Depending upon the age range of the children who receive the services specified by this bill, APD may or may not be the appropriate entity to work with AHCA.

The Agency for Persons with Disabilities reports that previous attempts to obtain a federal waiver to provide services to children with ASD were unsuccessful due to the inability to demonstrate savings through the implementation of a waiver program.

The services that are specified by this bill are not inclusive of the types of services that are usually provided to children with ASD.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
